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# The Family-Hostile Corporation

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# The Family-Hostile Corporation

Joan C. Williams\*

The corporate goal of stockholder wealth maximization not only destroys the corporation . . . it also destroys our social fabric.<sup>1</sup>

It is a tribute to the sweep and vision of *Corporate Irresponsibility: America's Newest Export* that I was invited to comment. I have never practiced corporate law. I have never written on corporate law. I assure you that I know nothing about corporate law. What makes Professor Mitchell's book so welcome is that he rethinks corporate law in a way that breaks down the traditional disciplinary boundaries. His analysis of corporations' current obsession with short-term stock price is apt; even more important is his bold envisioning of solutions.<sup>2</sup> The intersection of his work and my own concerns corporations' treatment of people, which has both ethical and economic drawbacks. From an economic viewpoint, corporations' treatment of workers "not as assets but as costs"—or as short-term profit centers—makes no sense from a bottom-line perspective; nor do corporations' insistence that employees divorce their everyday ethics from their business lives.<sup>3</sup> These habits converge to create corporate irresponsibility towards the family.

## I. Corporate Time Culture and the Family

Corporations set the terms within which family life is lived. They do so by defining the ideal worker, in most good jobs, as someone who starts to work in early adulthood and works, full-time and full force, for forty years without a break.<sup>4</sup> In the U.S., where we work more overtime than in any other industrialized country, this means that the ideal worker will often leave home at 8 a.m., and not return until 6, 7, or 8 p.m.<sup>5</sup>

Here is the problem: few of us feel that is an ideal way to raise children. There is a very widespread and uncontroversial sense that children need and deserve time with their parents, and that ill parents and partners need time and family care as well.<sup>6</sup> We can call this the norm of family care, but it is really more than a norm: as a society, we rely heavily on family care for both

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1 LAWRENCE E. MITCHELL, *CORPORATE IRRESPONSIBILITY: AMERICA'S NEWEST EXPORT* 94 (2001).

2 *Id.* at 4-11.

3 *Id.* at 210.

4 See JOAN WILLIAMS, *UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT* 1-2 (2000) [hereinafter WILLIAMS, *UNBENDING GENDER*] (noting evolution of the ideal worker norm in the United States).

5 Steven Greenhouse, *Americans' International Lead in Hours Worked Grew in 90's, Report Shows*, N.Y. TIMES, Sept. 1, 2001, at A8.

6 See ELLEN GALINSKY, *ASK THE CHILDREN: WHAT AMERICA'S CHILDREN REALLY THINK ABOUT WORKING PARENTS* 58 (1999) ("We asked parents in our Ask the Children survey, 'If you were granted one wish to change the way that your work affects your child's life,

children and elders. Parents remain one, if not the most, common single source of childcare. Additionally, informal networks deliver 85% of elder care.<sup>7</sup>

So there is a clash between a work system that still assumes that the ideal worker is one without responsibilities for family care and a family system that is still heavily reliant on family caregiving.<sup>8</sup> The situation is worst in jobs that enshrine overtime work.<sup>9</sup> Yet even when “full-time” means a forty-hour week, dual-earner couples often experience acute work/family conflict.

*Stress.* The clash between our work systems and our family system creates high levels of stress in dual-earner households. According to one study, 72% of fathers and 65% of mothers reported difficulties managing childcare and dual career problems due to stress.<sup>10</sup>

*Conflict and divorce.* The current system also creates high levels of conflict. One astute observer noticed a sharp increase in recent decades of the conflict between couples over the allocation of household chores.<sup>11</sup> This problem becomes particularly acute in families that handle childcare by “tag teaming”: dual-earner couples where parents work different shifts so that one can care for the children while the other is at work.<sup>12</sup> The one out of three families with small children who handle childcare in this way are three to six times more likely to separate or divorce than families who do not tag-team.<sup>13</sup> High rates of overtime also are associated with conflict and divorce; we all have heard of lawyers, doctors, and other professionals who ultimately divorced because they “never saw their families.” Work/family conflict negatively affects the cohesion even in families that stay together.<sup>14</sup>

In short, the corporate habits documented by Professor Mitchell—in particular the short-term focus on quarterly shareholder stock price—create

what would that wish be?’ The largest portion of parents—22 percent—wished to ‘have more time with their child.’”).

7 Judy Mann, *Blessed, and Undervalued, Are the Caregivers*, WASH. POST, May 11, 2001, at C9.

8 One reason the U.S. is so heavily reliant on family care is the lack of the kinds of social supports for family caregivers, including subsidized childcare, that exist in other countries. Patrick R. Hugg, *Transnational Convergence: European Union and American Federalism*, 32 CORNELL INT’L L.J. 43, 65-66 (1998).

9 See CYNTHIA FUCHS EPSTEIN ET AL., *THE PART-TIME PARADOX: TIME NORMS, PROFESSIONAL LIVES, FAMILY, AND GENDER* 21 (1999) (arguing that professionals are “socialized to rationalize working hours far in excess of what has become a culturally normative American 40-hour workweek”).

10 ROSALIND C. BARNETT & CARYL RIVERS, *SHE WORKS/HE WORKS: HOW TWO-INCOME FAMILIES ARE HAPPIER, HEALTHIER, AND BETTER-OFF* 57 (1996).

11 LILLIAN B. RUBIN, *FAMILIES ON THE FAULT LINE: AMERICA’S WORKING CLASS SPEAKS ABOUT THE FAMILY, THE ECONOMY, RACE, AND ETHNICITY* 86-87 (1994).

12 Jacqueline L. Salmon, *‘Hi, Dad! Bye, Mom’—Couples Try Parenting in Shifts*, WASH. POST, Aug. 2, 1998, at A1.

13 Harriet B. Presser, *Nonstandard Work Schedules and Marital Instability*, 62 J. MARRIAGE & FAM. 93 (2000).

14 Daphne Pedersen Stevens, Gary Kiger & Pamela J. Riley, *Work-Family Conflict Among Dual-Earner Couples: The Effects of Job Factors on Family Cohesion*, Speech at the Work/Family Summit Sponsored by the Business and Professional Women USA and the Sloan Foundation (Feb. 2, 2002) (on file with author).

work patterns that hurt families by increasing stress, conflict, and divorce.<sup>15</sup> We need to contest this time culture using two languages Professor Mitchell uses: the language of economics and the language of ethics.<sup>16</sup> We also need to add a third dimension by using gender as a category of analysis.<sup>17</sup>

## II. *The Language of Economics: Does Corporate Time Culture Make Economic Sense?*

Given our heavy reliance on family care, work needs to be restructured in two ways. First, workers need balanced hours that recognize work and nonwork obligations. Second, they need flexibility. Workers need the flexibility to schedule working hours around children's needs or schedules and the ability to take time off, for example, for children's or elders' doctor's appointments.

The conventional wisdom is that business cannot afford to change the way it schedules work. Indeed, the corporate culture of long hours is justified in business terms. The particular regulatory climate of the U.S. leads employers to ratchet up overtime in good jobs.<sup>18</sup> Americans now work longer hours than any other industrialized country because, in the short term, increasing overtime decreases labor costs of both blue-collar and white-collar workers. In blue-collar work, increasing overtime allows employers to amortize the costs of a full benefits package (which may equal as much as one-third of labor costs) over a fifty- or sixty-hour week, rather than a forty-hour week.<sup>19</sup> In the white-collar context, increasing overtime means that exempt employees work longer hours without additional compensation.

While ratcheting up overtime may make quarterly profits look good, it hurts corporations in the long run. We think immediately of the telephone lineman who had a fatal accident after working almost twenty-four hours straight.<sup>20</sup>

But long before the death of a few good men, corporate time culture has had a devastating effect on women. Its impact is simple. It eliminates most of them.

Eighty-five percent of women become mothers, and, with few exceptions, mothers do not work overtime.<sup>21</sup> Ninety-three percent of mothers work less than fifty hours a week during the key career-building years.<sup>22</sup> An

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<sup>15</sup> MITCHELL, *supra* note 1, at 4-11.

<sup>16</sup> *Id.* at 70.

<sup>17</sup> See generally JOAN WALLACH SCOTT, *GENDER AND THE POLITICS OF HISTORY* (1988).

<sup>18</sup> See WILLIAMS, *UNBENDING GENDER*, *supra* note 4, at 111 (explaining that employers require mandatory overtime in order to avoid the costs of hiring new employees).

<sup>19</sup> WILLIAMS, *UNBENDING GENDER*, *supra* note 4, at 80.

<sup>20</sup> Mary Williams Walsh, *As Hot Economy Pushes Up Overtime, Fatigue Becomes a Labor Issue*, N.Y. TIMES, Sept. 17, 2000, § 1, at 32.

<sup>21</sup> Thanks to Suzanne Bianchi and Liana Sayer for calculating these figures from the Current Population Survey, Bureau of Labor Statistics & The Bureau of the Census, (Mar. 1999), available at <http://www.bls.census.gov/cps/cpsmain.htm> (last visited Jan. 27, 2002) [hereinafter Current Population Survey].

<sup>22</sup> *Id.*

employer who defines “full-time” as requiring regular overtime, in effect, wipes most mothers—and roughly 80% of all women—out of his labor pool.

This certainly has a disparate impact on women; in some cases, liability may be part of the business case for changing corporate time culture.<sup>23</sup> But the basic business case is much simpler. The Great American Speed-Up—we now work longer hours even than Japan—leads to a number of costs in the longer term.<sup>24</sup> The most notable cost stems from attrition.

Employees may agree to work long hours for a while, but then many will quit. This is particularly true of women, who now comprise half of the labor pool for most jobs.<sup>25</sup> Attrition among men may also be expected to increase according to the “time divide” studies—these studies document a high demand among high-hours workers (most of them men) for shorter hours.<sup>26</sup> A growing literature on Gen-X and Gen-Y men documents how these generations are less willing than older men to “make sacrifices” for their jobs—in part because many of them saw their fathers do so, only to be fired.<sup>27</sup>

The Speed-Up feeds attrition, and attrition is expensive. Standard human resource estimates are that replacing an employer who leaves costs 75% to 150% of annual salary; for high-human-capital jobs such as lawyers, costs may be higher.<sup>28</sup> But attrition shows up only over time; a corporate mindset obsessed with short-term profits will ignore attrition much as it ignores other long-term costs.

The corporations most attuned to this analysis, not surprisingly, are accounting firms. Because accounting firms analyze the numbers, some have committed, in a rigorous and systematic way, to reduce attrition. The leaders are Deloitte & Touche and Ernst & Young. Both firms addressed attrition by moving from the standard, underutilized “family-friendly programs” to sweeping initiatives that actually deliver flexible schedules without the kind of stigma that undercuts work/life initiatives in most companies.<sup>29</sup> Both firms have realized significant savings. Last year, Deloitte estimated that it saved \$20 million through reduced attrition.<sup>30</sup> Ernst estimated that it saved be-

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<sup>23</sup> See Joan Williams & Nancy Segal, *Beyond the Maternal Wall: Relief for Family Caregivers Who Are Discriminated Against on the Job* (forthcoming 2002) (documenting employer liability for caregiver discrimination).

<sup>24</sup> Greenhouse, *supra* note 5, at A8.

<sup>25</sup> Cheryl Hanna, *Changing from Within*, 12 HASTINGS WOMEN'S L.J. 273, 274 (2001) (reviewing PEGGY ORENSTEIN, *FLUX: WOMEN ON SEX, WORK, LOVE, KIDS, AND LIFE IN A HALF-CHANGED WORLD* (2001)).

<sup>26</sup> WILLIAMS, UNBENDING GENDER, *supra* note 4, at 59.

<sup>27</sup> Catherine Loughlin & Julian Barling, *Young Workers' Work Values, Attitudes, and Behaviours*, 74 J. OCCUPATIONAL & ORG. PSYCHOL. 543, 544-46 (2001).

<sup>28</sup> WILLIAMS, UNBENDING GENDER, *supra* note 4, at 88; Joan Williams & Cynthia Thomas Calvert, *The Project for Attorney Retention Final Report—Balanced Hours: Effective Part-Time Policies for Washington Law Firms* (2001), available at <http://www.pardc.org>.

<sup>29</sup> See ARLIE RUSSELL HOCHSCHILD, *THE TIME BIND: WHEN WORK BECOMES HOME & HOME BECOMES WORK*, 25-34 (1997).

<sup>30</sup> E-mail from Kathryn Davie Wood, Senior Manager, Initiative for the Advancement of Women, Deloitte & Touche, to Joan Williams, Director, Program on Gender, Work & Family, American University, Washington College of Law (Feb. 27, 2002, 16:08:23 EST) (on file with author).

tween \$25 and \$120 million (depending on whether one counts indirect costs).<sup>31</sup>

Professor Mitchell demonstrates how corporations' focus on quarterly earnings and shareholder price negatively affect "research and development (R & D), better worker training and care, and so on."<sup>32</sup> He also protests the convention of treating workers as costs rather than as assets. We need to link the corporation's short-term focus with its attitude towards workers and address head-on why it is inappropriate to treat workers as short-term profit centers. The first reason is that it is bad business, even judging by the most conventional of assessment tools—the bottom line.

### *III. The Language of Ethics: Does Corporate Time Culture Make Sense Ethically?*

I am not sacrificing the language of moral responsibility for the more pragmatic approach of business benefit.<sup>33</sup>

Professor Mitchell insists that we be self-conscious about the relationship between the role of arguments about economics and ethics.<sup>34</sup> This is a healthy reminder that we need to argue for corporate change, not only in the "coin of the (corporate) realm"—the language of economics—but also in ethical terms.

Professor Mitchell argues that corporate culture expects people to leave their ethical commitments outside the corporate door.<sup>35</sup> If Enron is one example of this ethic, then corporations' refusal to come to terms with the value placed in family care is another.

Americans place a high value on family care, as opposed to paid care, for complex reasons. Some explanations stem from our failure to provide viable alternatives. In France, for example, even families with stay-at-home mothers fight to get their children into high-quality, neighborhood-based childcare centers because these centers provide important socialization, as well as well-child services, including inoculations.<sup>36</sup> The U.S., in sharp contrast, vetoed funding for childcare in the 1970s on the grounds it was too communistic.<sup>37</sup> As a result, many existing paid care arrangements experience quality problems, including: low wages and high turnover rates for day-care personnel; increased suspension and revocation of operating licenses; and increased criminal background problems and child-abuse history.<sup>38</sup>

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<sup>31</sup> E-mail from Alison Hooker, Partner, Center for the New Work Force, Ernst & Young, to Joan Williams, Director, Program on Gender, Work & Family, American University, Washington College of Law (Feb. 26, 2002, 13:44:21 EST) (on file with author).

<sup>32</sup> MITCHELL, *supra* note 1, at 116.

<sup>33</sup> *Id.* at 155.

<sup>34</sup> *Id.* at 70.

<sup>35</sup> *Id.* at 76-78.

<sup>36</sup> BARBARA R. BERGMANN, SAVING OUR CHILDREN FROM POVERTY: WHAT THE UNITED STATES CAN LEARN FROM FRANCE 27-49 (1996).

<sup>37</sup> WILLIAMS, UNBENDING GENDER, *supra* note 4, at 49.

<sup>38</sup> Ann Scott Tyson, *Putting More Care in Day Care*, CHRISTIAN SCI. MONITOR, Oct. 17, 1997, at 1, 8.

The governmental failure to make provisions for the reproduction of the workforce has shifted these costs to business itself. Far-seeing members of the business community recognize this problem, and in response, are forming a group to lobby for government childcare subsidies.<sup>39</sup> In the mean time, the norm of family care remains very strong and very uncontroversial.

Additionally, certain kinds of tasks are simply non-commodifiable. These responsibilities include sitting with one's dying mother, showing up for the school play, establishing backup care networks with the parents of one's child's friends, and many others. In fact, of the seven different kinds of family work it takes to raise a child, only three can be delegated outside the family. Day care and housework are delegable but household management is not. Child-related community service, such as coaching or being a room parent, and emotion work—helping a child deal with bumps in the road at school or with friends—are also nondelegable.<sup>40</sup>

When corporate managers insist on workers who comply with the ideal worker norm—someone without family care responsibilities—they send one of two messages. One message is that corporations need not respect their employees' need for family care. Yet the same managers who create family-hostile working conditions—like the supervisor who fired a father for leaving work fifteen minutes early to pick up his son after soccer practice (the boy was frightened to be left alone because shots had been fired into the building the week before)<sup>41</sup> would never think of ignoring their own family's need for care. The insistence that workers leave their family concerns at the door creates a family-hostile corporation that "impos[es] substantial costs on other people and society" in precisely the way Professor Mitchell decries.<sup>42</sup>

The second message sent by the outdated definition of the ideal worker is about the importance, or lack of importance, of gender equality. It is an open secret that the progress of women has stalled. In recent years, as overtime has spiraled higher, the wage gap between men and women has increased; men fill the high-profile, high-overtime jobs while women are left behind.<sup>43</sup> In addition, the family gap between mothers and other adults also has increased: while young women without children earn roughly 90% of the wages of men, mothers earn only 60% of the wages of fathers.<sup>44</sup> The family gap is worse for single than for married mothers.<sup>45</sup> These data highlight that, given that American women still have babies, and still do 80% of the child-

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<sup>39</sup> Childcare subsidies are on the agenda of Corporate Voices for Working Families, an organization recently founded by Donna Klein of Marriott. See Donna Klein, Speech at the Work/Family Summit Sponsored by the Business and Professional Women USA and the Sloan Foundation (Feb. 2, 2002).

<sup>40</sup> Joan Williams, *From Difference to Dominance to Domesticity*, 76 CHI.-KENT L. REV. 1441, 1446 (2001).

<sup>41</sup> See Labor Law: Firing Unionist Dad Who Left Work Early Is Not Unfair Labor Practice, 148 DLR A-1, (Aug. 2, 2001).

<sup>42</sup> MITCHELL, *supra* note 1, at 78.

<sup>43</sup> Joan Williams, *Celebrating a Happy Equal Pay Day? Not Likely*, WOMEN'S ENEWS, April 10, 2002, at <http://www.womensenews.org/article.cfm/dyn/aid/873/context/archive>.

<sup>44</sup> Thanks to Suzanne Bianchi and Liana Sayer for calculating these figures from the Current Population Survey, *supra* note 221.

<sup>45</sup> See Jane Waldfogel, *The Effect of Children on Women's Wages*, 62 AM. SOCIOLOGICAL



care, defining the ideal worker as someone who takes no time off for childbearing, childrearing, or anything else defines workplace ideals around men in a way that is inconsistent with a commitment to gender equality.<sup>46</sup>

In other words, Professor Mitchell's point that people are expected to divorce their personal ethics from their business conduct is apt, but we need to extend that insight to the family.<sup>47</sup> A major disjuncture in American corporate life exists between our ideals at home, our ideals at work, and our ideals of gender equality. Gender equality will prove elusive, as will family well-being, so long as people are expected to leave their family ideals at the office door if they want to "get ahead." This is uneconomic. It is also unethical.

#### IV. *Using Gender as a Category of Analysis: Who Is a "Player"?*

If the family-hostile habits of the American corporation are not, as is so often claimed, driven by the bottom line, by what are they driven? Here I diverge from Professor Mitchell's analysis in a significant way. Although Professor Mitchell talks with great insight about class dynamics in contemporary corporations, he rarely mentions gender.<sup>48</sup> One cannot begin to understand what drives corporate irresponsibility without using gender as a category of analysis.

Why do managers who are fundamentally decent in their daily lives screen out human values at work in pursuit of the false deity of shareholder price? What drives them, I submit, is not wealth, but the desire to be a "player."

Let me tell a story. At Aspen, I was talking with a former president of an Ivy League institution about why corporate lawyers work such long hours. He said an acquaintance of his, a partner at a major law firm, was complaining about the long hours he had to work. Then why, the former president asked him, don't you just cut your hours and make \$300,000 rather than \$500,000? His friend was speechless. He had already said he didn't need the money, and he really didn't have the words to explain why cutting back was beyond the realm of the thinkable. The former president explained that the reason was that then his friend wouldn't be a "player."<sup>49</sup>

Translating this little vignette into a theorist's language, much of what occurs today in the business world, which is described in the language of profit maximization, is not really about money; it's about masculinity. Gender norms imprison men into a frantic scramble to remain "players," often at

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REV. 209, 209 (1997) ("There is also a persistent 'family gap'; that is, mothers earn lower hourly wages than do women without children.").

<sup>46</sup> WILLIAMS, UNBENDING GENDER, *supra* note 4, at 2.

<sup>47</sup> See MITCHELL, *supra* note 1, at 44-45.

<sup>48</sup> Indeed, the only sustained mention is in a footnote and concerns Carol Gilligan's "different voice" analysis. *Id.* at 71 n.d, 74 n.f, 75 n.g. Gilligan's sensitive explorations of the outlook of conventional femininity is only a narrow band of gender analysis, as is evidenced by the text. *Id.*

<sup>49</sup> Interview by Joan Williams with former president of an Ivy League institution, in Aspen, Colo. (Aug. 21-22, 2000).

great personal cost to themselves, their colleagues, and their families.<sup>50</sup> Workplaces are a key arena for the enactment of masculinity and long hours often serve as concrete manifestations of manliness.<sup>51</sup> That is one reason why privileged men end up working far more hours than they want.

With growing evidence that members of Gen-X and Gen-Y are less willing than their elders to sacrifice family and other goals for a job, the moment may have come to reassess the balance between profits and other corporate goals as Professor Mitchell suggests. Also, it is important to reevaluate the balance between jobs and the rest of life.<sup>52</sup> This reassessment will require us to think in a sophisticated way about job performance as gender performance. Many workplaces, blue-collar as well as white-collar, are driven by a "Harley Davidson" culture; rethinking work requires rethinking masculinity. One resource in this process is to observe the recoding of nurturance as manly, a process already well underway. We now see Gen-X and Gen-Y men pushing baby carriages, changing diapers, and caring for ill partners (gay and straight).

But we also need an increased awareness of gender pressures on men. So long as masculine identity is bonded with the job, few men, other than unconventional ones, will feel able to do anything other than perform as ideal workers.

How do we change the meanings of masculinity? It is not impossible; in fact it is already underway. In the past twenty years, two abiding themes have been destabilized: the he-man and Father Knows Best. To see this phenomenon, we need only compare Tarzan with George of the Jungle, and *Father Knows Best* with *The Simpsons*.

Think of the distance between Tarzan and George of the Jungle. Tarzan is the ultimate strong, silent type: he rescues poor little Jane and bellows mightily.<sup>53</sup> George of the Jungle also rescues Jane—and then bangs head-on into a tree.<sup>54</sup> In this and other contexts, the he-man has become a contested cultural norm. Again: compare Popeye to SpongeBob Squarepants.<sup>55</sup>

The patriarchal father also has hit some bumps in the road. Contrast the 1950s TV show *Father Knows Best* with *The Simpsons* of the 1990s. In *Father Knows Best*, Father knows everything.<sup>56</sup> In *The Simpsons*, Homer is not only unintelligent; he is also gross and unethical. Like the he-man, the patriarchal father has become a contested cultural norm.<sup>57</sup>

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50 WILLIAMS, UNBENDING GENDER, *supra* note 4, at 71-72.

51 *Id.* at 59.

52 MITCHELL, *supra* note 1, at 84-94; Loughlin & Barling, *supra* note 227.

53 See, e.g., TARZAN AND HIS MATE (Metro-Goldwyn-Mayer Pictures 1934) (depicting Tarzan arriving just in time to save Jane from hostile natives).

54 GEORGE OF THE JUNGLE (Walt Disney Pictures 1997).

55 See generally Popeye (Famous Studios); *SpongeBob Squarepants* (Nickelodeon 2002).

56 See, e.g., *Father Knows Best: Hero Father* (NBC television broadcast, May 2, 1956) (featuring Father as a hero for arranging for a professional basketball player to come to his son's school).

57 See, e.g., *The Simpsons: Call of the Simpsons* (FOX television broadcast, Feb. 18, 1990) (depicting the Simpson family, led by Homer, getting lost on a camping trip and losing all of their equipment).

How about the “player”? That’s a masculine norm we still embrace without self-consciousness. The “player” could be parodied as someone out of touch with human values, willing to sacrifice everything to scramble a little higher on the pecking order of men. A key project to ending the family-hostile corporation involves inventing new understandings of manliness that incorporate more of the family man and less of the corporate cowboy.

#### V. *Reshaping Work Around the Values People Hold in Family Life*

If the sharp disjuncture between our work and family ideals is an example of the unhealthy bifurcation in American business culture Professor Mitchell documents, how can we turn this situation around?<sup>58</sup> We need first, to reshape workplaces around the values people hold in family life, notably around the value of family care. This turnabout requires far more than existing “family-friendly policies.” Most large companies have such policies.<sup>59</sup> Yet most companies’ policies suffer from very low usage rates.<sup>60</sup> Arlie Hochschild’s *The Time Bind* documented the low usage rate and the corporate culture that sends signals that anyone who actually *uses* flexible work arrangements jeopardizes professional relationships and career advancement and stability.

To move beyond policies that are underutilized, mommy tracks require employers to replace existing policies that effectively address two different issues: balanced hours and flexibility. Balanced-hours policies allow employees to limit work time to forty or fewer hours a week, while observing what I have called the “principle of proportionality:” proportional pay, proportional benefits, proportional training, and proportional advancement.<sup>61</sup> In addition to offering balance, effective policies also offer flexibility to allow parents to tend to sick kids, to attend school plays, and other activities.<sup>62</sup> Low-wage workers often lack basic needs as simple as the ability to make a phone call after school to check on a child who is home alone. Flexibility also means flex-place: not all jobs can be done off-site, but many can.

Balanced-hours policies protect widespread and uncontroversial values relating to family care. Effective policies apply not only to mothers, which would be a violation of Title VII, but to parents and other family caregiving. The fact is that, in our society (which works more overtime than Japan, which coined a word for “death from overwork”), many people feel that they work too much.<sup>63</sup> One key problem Americans face today is that the only available excuse to limit work demands is family. Although corporate cultures need to respect family caregiving, companies must also make room for adults without child-care or elder-care responsibilities to say, “I am committed to my work, but I also am committed to balance, and I expect my company to

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<sup>58</sup> MITCHELL, *supra* note 1, at 72-81.

<sup>59</sup> HOCHSCHILD, *supra* note 229, at 27.

<sup>60</sup> *Id.* at 25-26.

<sup>61</sup> Williams & Calvert, *supra* note 228, at 20-26.

<sup>62</sup> *Id.* at app. B.

<sup>63</sup> See Greenhouse, *supra* note 5 (explaining that Americans believe they are overworked compared with other industrial nations).

respect that.” Employees not only need time for family life, but they also need time for community service and the pursuit of other goals.

How can this restructuring work? The fact is that it already works in some companies that have taken strides towards workplace policies and cultures offering both balance and flexibility: Baxter, a pharmaceutical company; Ernst & Young and Deloitte & Touche, both accounting firms; IBM, and others.<sup>64</sup> A growing base of work/life literature documents the best practices, beginning from the principle that all workplace innovations must observe a dual agenda: (1) they must make the workplace more effective; and (2) they must contribute to employees’ work/life goals.<sup>65</sup> Obviously, corporations exist to make money. As noted above, however, the family-hostile corporation focuses so much on treating each individual as a profit center for the short term, that it loses sight of the forest for the trees. If corporations begin to work *with* employees’ families and other non-work aspirations rather than against them, corporate effectiveness will be enhanced in the longer term. As Professor Mitchell aptly notes, there is a big difference between profits being *one* of your corporate goals, albeit an important one, and short-term shareholder price being the *only* legitimate corporate goal.<sup>66</sup>

On a philosophical level, as a society, we need to ask what the role of work should be in life. Anyone who has traveled abroad knows that Europeans and Latin Americans often question what they see as Americans’ workaholic culture. A longer term project to end the family-hostile corporation is to begin a national conversation about work and life, beginning by understanding the deep bonding of Americans to their jobs. The Protestant work ethic comes to mind as a source of America’s work-culture, until one remembers that Protestantism began in Germany, the country where workers take off eight weeks a year. I suspect a more important influence is our immigrant culture. Americans came to this country to “work hard and get ahead.”

Professor Mitchell’s book is important because it gives a voice to corporate actors who already believe they have moral duties, not only to shareholder price, but also to a wider array of constituencies including employees and the community at large. In thinking through their own corporate responsibility, these actors, and ultimately Professor Mitchell, should consider the impact of gender.

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<sup>64</sup> Dottie Enrico & Stephanie Armour, *Executives Push Family Agenda; Meeting Needs Can Retain Talent*, USA TODAY, Sept. 29, 1997, at 5B.

<sup>65</sup> LOTTE BAILYN, *BREAKING THE MOLD: WOMEN, MEN, AND TIME IN THE NEW CORPORATE WORLD* (1993).

<sup>66</sup> MITCHELL, *supra* note 1, at 84-94.